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FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 11-42; DA 14-450]

Wireline Competition Bureau Announces Release of Final Lifeline Biennial Audit Plan

AGENCY: Federal Communications Commission

ACTION: Notice.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) in conjunction with the Office of Managing Director (OMD), developed standard procedures for independent biennial audits of eligible telecommunications carriers (ETCs). By establishing uniform audit procedures to review the internal controls and processes of Lifeline service providers, the Bureau and OMD are implementing another major reform established by the Commission to protect the federal universal service fund from waste, fraud and abuse.

DATES: Effective [INSERT DATE UPON PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Garnet Hanly, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-0995 or TTY (202) 418-0484; or Thomas Buckley, Office of the Managing Director, at (202) 418-0725.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Wireline Competition Bureau's Public Notice in WC Docket No. 11-42; DA 14-450, released April 2, 2014. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the

Commission's web site at <http://www.fcc.gov/document/release-final-lifeline-biennial-audit-plan-announced>.

I. INTRODUCTION

1. By this document, the Wireline Competition Bureau (Bureau) announces release of the final Lifeline Biennial Audit Plan, attached hereto as Attachment 3 (Audit Plan). In the Lifeline Reform Order, the Commission directed the Bureau, in conjunction with the Office of Managing Director (OMD), to develop standard procedures for independent biennial audits of eligible telecommunications carriers (ETCs) receiving \$5 million or more annually from the low-income universal service support program. By establishing uniform audit procedures to review the internal controls and processes of Lifeline service providers, the Bureau and OMD are implementing another major reform established by the Commission to protect the federal universal service fund from waste, fraud and abuse. The **appendices** to the Biennial Audit Plan are available for public inspection at <http://www.fcc.gov/document/release-final-lifeline-biennial-audit-plan-announced> and FCC Headquarters at 445 12th Street, SW, Washington, DC 20554.

2. The independent audit firms conducting these biennial audits must plan their engagements by using the approved procedures outlined in the final Audit Plan. The independent audit firms must be licensed, certified public accounting firms and must conduct the audits consistent with Generally Accepted Government Auditing Standards (GAGAS). The audits shall be performed as agreed-upon procedures (AUP) attestations. In addition, to ensure compliance with the Commission's Lifeline requirements, the Universal Service Administrative Company (USAC) will conduct training for independent auditors performing the AUP engagements to ensure that the audits are performed in accordance with the Audit Plan. The independent auditors will be required to collect from the ETCs specific documents and completed questionnaires, which the independent auditors will inspect before conducting fieldwork testing and then preparing attestation reports.

3. ETCs receiving \$5 million or more from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, for calendar year 2013 will be subject to the first round of biennial audits. A list of ETCs subject to this requirement is attached

hereto as Attachment 2. As detailed in the Audit Plan, the final attestation report for each audit must be submitted within one year after release of the final Audit Plan, which is April 2, 2015 for the first biennial audit.

II. DISCUSSION

A. Changes to Audit Plan.

4. In order to promote clarity, transparency and predictability in the Lifeline program, the Bureau, in conjunction with OMD, released a public notice seeking comment on the proposed Lifeline Biennial Audit Plan. The Bureau received several comments addressing the proposed Lifeline Biennial Audit Plan. In response to comments, the Bureau and OMD hereby revise the Audit Plan in certain parts. Specifically, we make the following revisions to the Audit Plan:

5. **Audit Period:** The audit period has been revised to cover the period of January 1 through December 31. Commenters raised concern that the independent audits would cover activities that occurred outside of the proposed period of November 1 through April 30, so we adjusted the period to cover the entire calendar year. The first biennial audits will cover calendar year 2013.

6. **Submission of Attestation Reports:** To ensure that ETCs have a reasonable period of time to submit comments in response to the draft attestation reports, the Audit Plan has been revised to state that ETCs have 30 days to submit comments in response to the draft report. The final Audit Plan also clarifies when the fieldwork is deemed complete (i.e., when the audit results are presented to the ETC). Consistent with the Lifeline Reform Order, final reports must be provided by covered ETCs to the Commission, USAC, and relevant state and Tribal governments. For the audits conducted in 2014, the final report will be filed no later than April 2, 2015.

7. **Confidentiality of ETCs' Information:** To ensure that all of an ETC's work papers and communications between the independent auditor and the ETC remain confidential, the Audit Plan specifies that such communications can be maintained as confidential. The Audit Plan is also revised to clarify that the Commission will accept requests for confidential treatment of a draft audit report.

Whether a draft report is, in fact, protected from disclosure will depend on the Commission's analysis if and when access to such information is sought. However, all final reports are considered public information. In adopting the biennial audit requirements, the Commission, when describing the process for submission of final reports, specifically states that "[t]hese audit reports will not be considered confidential and requests to render them so will be denied." To maintain transparency in the program, the Audit Plan requires all final audit reports to be publicly available. Enabling public access to this information promotes the public interest of providing greater transparency into oversight of the Lifeline program.

8. **Subscriber Data for Testing:** The Audit Plan includes procedures to require the auditor to use a sampling of subscriber data (Subscriber List) to test compliance in key areas. Based on concerns raised by commenters that the sample was too broad, we have revised the Subscriber List requirement to cover Lifeline subscribers served by the ETC in three states or territories for one month. Specifically, the independent auditor shall randomly select one of the three states or territories where the ETC received the largest amount of Lifeline support and two additional states or territories randomly selected by the independent auditor. In the event the ETC did not receive Lifeline support in at least 3 states or territories, the auditor shall select all of the states or territories where the ETC received Lifeline support during the audit period. In addition, the Audit Plan has been revised to exclude subscribers from the Subscriber List in those states or jurisdictions where the state, or a state administrator, is responsible for obtaining the Lifeline certification forms and performs the annual recertification.

1. Fieldwork Testing Procedures, Objective I Procedures:

9. **Review of Marketing Materials.** To address commenters concerns that ETCs might not have ten (10) different examples of marketing materials, we have modified the Audit Plan to require those ETCs that have less than ten (10) different marketing materials to submit as many as it uses to advertise the ETC's Lifeline service plan.

10. **Customer Care for Lifeline Service.** Based, in part, on concerns raised by commenters, the Audit Plan has been revised to require auditors to review recorded calls involving Lifeline service as

opposed to requiring the auditor to monitor incoming calls to telephone number(s) used as customer care for Lifeline service. This change was made because many ETCs use such customer care telephone number(s) for non-Lifeline services.

11. **Non-Usage Requirement.** We have added a procedure to ensure that the auditor performs a thorough review of the ETCs' compliance with the Commission's non-usage rules. Specifically, we have revised the Audit Plan to require that the carrier explain how it monitors and identifies subscribers with no monthly fee who have not used the service for a certain period of time.

2. Fieldwork Testing Procedures, Objective II

12. **Testing of One-Per-Household Rule.** Given the implementation of the National Lifeline Accountability Database (NLAD) as a measure to detect and prevent duplicate support in the Lifeline program and consistent with information noted in the record, we have revised this objective to remove the procedure to check for duplicate addresses. The auditor, however, is still required to check for the existence of one-per-household worksheets in instances where multiple recipients of Lifeline service reside at the same address. The Audit Plan also clarifies that even if subscribers enrolled in the program prior to June 2012, the effective date of the one-per-household requirement, at least one subscriber at that address is still required to complete a one-per-household worksheet.

3. Fieldwork Testing Procedures, Objective III

13. The Audit Plan has been revised to require the auditor to review the ETC's procedures on how the ETC's employees and agents are trained on the use of and interaction with the NLAD, because all ETCs are required to use the NLAD to confirm that a consumer is not already enrolled in the program.

4. Fieldwork Testing Procedures, Objective IV

14. To reduce the burden on the ETCs, the Audit Plan has been revised to limit the sample for testing each ETC's recertification process. The Audit Plan now requires testing of a sample of three states or territories. The independent auditor shall randomly select one of the three states or territories where the ETC received the largest amount of Lifeline support and two additional states or territories randomly selected by the independent auditor. . Several commenters asked that the sampling for the FCC Form 555 be modified to limit a sample to a smaller subset of SACs rather than all SACs served by the

ETC, and we agree that we can meet our auditing goals with the smaller sample. We have also clarified that the FCC Form 555 filed by ETCs the January following the audit period is the form subject to each biennial audit. As such, the FCC Form 555 subject to the first biennial audits is the one filed in January 2014.

5. Appendix A, Requested Documentation

15. **Scope of Sample.** As discussed in the Subscriber Data for Testing section above, to address concerns raised by commenters, we have revised the sample size to provide a more measured target of the number of subscribers that could be included in the Subscriber List. Additionally, we have revised the subscriber samples to test whether the ETC's procedures for implementing the recertification process and non-usage requirements are effective.

16. **State-Specific Requirements.** In the event there are state-specific requirements that are more restrictive than the Commission's requirements described in Appendix F, the Audit Plan has been revised to require the ETC to provide such state requirements to the independent auditor. This would allow the independent auditors to understand such differences between Commission and state requirements.

6. Appendix B, Background Questionnaire

17. We have revised Appendix B of the Audit Plan to require ETCs to only list the company's supervisors if there are more than ten individuals responsible for determining eligibility and recertification of Lifeline subscribers.

7. Appendix C, Internal Control Questionnaire

18. Recognizing that ETCs may have multiple individuals who would complete the Internal Control Questionnaire, we have revised this appendix to delete the requirement that only one individual from each company is required to complete the questionnaire. Additionally, the appendix has been revised to clarify or remove certain questions deemed unnecessary for the purpose of this audit. These revisions also include the addition of questions relating to the ETC's use of the NLAD.

8. Appendix F, Compliance Requirements

19. The Audit Plan has been revised to remove the appendix titled "Requested

Documentation: USAC Management” as it is no longer necessary based on other revisions.

III. PROCEDUAL MATTERS

A. Paperwork Reduction Act

20. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

B. Final Regulatory Flexibility Analysis

21. As Required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Wireline Competition Bureau (Bureau), in conjunction with the Office of Managing Director (OMD), prepared an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Public Notice on the Proposed Lifeline Biennial Audit Plan. The Bureau, in conjunction with OMD, sought written public comment on the proposed Audit Plan, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

a. Need for, and Objectives of, the Lifeline Biennial Audit Plan

22. This document sets forth the standard procedures for independent biennial audits of carriers drawing \$5 million or more annually from the low-income universal service support program.

b. Legal Basis

23. The Public Notice, including publication of proposed procedures, is authorized under Sections 1,2, 4(i) through (j), 201(b), 254, 257, 303(r), and 503 of the Communications Act of 1934, as amended, and Section 706 of the Telecommunications Act of 1996, as amended.

c. Description and Estimate of the Number of Small Entities to which the Proposed Biennial Audit Plan Will Apply

24. The RFA directs agencies to provide a description of and, where feasible, an estimate of

the number of small entities that may be affected by the proposed Biennial Audit Plan. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.” Thus, we estimate that most governmental jurisdictions are small.

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